

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION**

DEBORAH BATES,

Plaintiff,

v.

VULCAN MATERIALS COMPANY,

Defendant.

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Civil Action No. \_\_\_\_\_

JUDGE \_\_\_\_\_

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**NOTICE OF REMOVAL**

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Defendant Vulcan Materials Company (“Vulcan”) pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby gives notice of the removal of this action from the Circuit Court for Maury County, Tennessee at Columbia, to the United States District Court for the Middle District of Tennessee, Columbia Division. In support of the removal, Vulcan respectfully states as follows:

1. Plaintiff filed a personal injury civil action against Vulcan in the Circuit Court for Maury County, Tennessee, Case No. 16831, on August 11, 2020. True and correct copies of the Complaint, the summonses, and all process, pleadings, orders, and other papers or exhibits of every kind on file in the Maury County Circuit Court are attached to this Notice of Removal as **Exhibit A – Collective**, as required by 28 U.S.C. § 1446(a).

2. Plaintiff asserts claims for damages against Vulcan for personal injury of allegedly caused by the negligence of Vulcan. The Plaintiff alleges that she drove a dump truck for her employer on to the property of Vulcan located at its Columbia location to pick up a load of material of pug mix. Plaintiff alleges that the load was to be delivered by Vulcan into the bed of the dump truck operated by the Plaintiff through an overhead bin and chute where the material

was to be dropped. Plaintiff alleges that she pulled the dump truck she was operating on to a loading area under the overhead bind and chute and then was required to pull a cable with a strap on it to open the chute so the pub mix material would drop into the bed of the dump truck. Plaintiff alleges that when she was attempting to pull the cable to open the chute, the cable snapped and the Plaintiff fell from her dump truck on to the ground and sustained personal injuries. (Compl. ¶¶ 4). Plaintiff brings claims against Vulcan for negligent acts and omissions of its employees while in the course and scope of their employment through the doctrine of *respondeat superior*; failure to warn; failure to inspect and/or repair the cable; failure to properly secure the cable; failure to exercise due and reasonable care; pain and suffering; loss of enjoyment of life; emotional distress; medical expenses (past, present and future); lost wages; loss of earning capacity; and permanent damages. (Compl. ¶¶ 5-8).

3. At the time of filing the Complaint, Plaintiff Deborah Bates was a citizen and resident of Maury County, Tennessee in the City of Columbia. (Compl. ¶ 1).

4. At the time of the alleged incident, and on information and belief, the Decedent, Colling Sawasky, was a citizen and resident of the State of Wisconsin.

5. At the time of filing the Complaint, Defendant Vulcan Construction Materials, LLC, d/b/a River Road Quarry was, and is, a foreign corporation formed under the laws of the State of Delaware, with its principal place of business located in Vestavia, Alabama. (Compl. ¶ 2).

6. At the time of filing the Complaint, Defendant Vulcan Materials Company was, and is, a foreign corporation formed under the laws of the State of New Jersey, with its principal place of business located in Vestavia, Alabama. (Compl. ¶ 2).

7. Vulcan received service of process of a Summons and the Complaint through its Registered Agent on or about August 26, 2020.

8. According to the Complaint, the alleged incident which gave rise to Plaintiff bringing this civil action against Vulcan occurred in Maury County, Tennessee. (Compl. ¶ 3).

9. This Action is a civil action over which this Court has original jurisdiction, pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court by Vulcan pursuant to the provisions of 28 U.S.C. § 1441(a) in that there exists complete diversity between the parties in the Action and the amount in controversy exceeds the jurisdictional minimum sum of \$75,000, exclusive of interests and costs. More specifically, Plaintiff seeks damages in an amount not to exceed \$200,000. (See Compl., prayers for relief, ¶ c).

10. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of receipt "by the defendant(s), through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446(b).

11. The United States District Court for the Middle District of Tennessee, Columbia Division is the federal judicial district encompassing the Circuit Court of Maury County, Tennessee, where Plaintiff originally filed this suit, such that this is the proper federal district for removal of this case to federal court. 28 U.S.C. § 1441(a); 28 U.S.C. § 123(a).

12. Pursuant to 28 U.S.C. § 1446(d), Plaintiff, through Plaintiff's counsel, will be served with written Notice of Removal, and a copy of this Notice of Removal will be filed contemporaneously with the Circuit Court for Maury County, Tennessee, at Columbia. A true and correct copy of the Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**.

13. By filing the instant Notice of Removal, Vulcan does not waive, and fully reserves, all defenses it may have, including but not limited to, defenses of lack of personal jurisdiction, lack of subject matter jurisdiction, improper venue, and failure to state a claim upon which relief may be granted.

14. Based on the foregoing, Vulcan respectfully request that the United States District Court for the Middle District of Tennessee, Columbia Division, accept this Notice of Removal and assume jurisdiction of this cause and issue such further orders and processes as may be necessary to bring before it all parties necessary.

15. Vulcan hereby demands a jury trial as to all claims triable in this Action.

WHEREFORE, Defendant Vulcan Materials Company hereby gives notice that the above-described action now pending against it in the Circuit Court for Maury County, Tennessee, at Columbia, has been removed therefrom to this Court.

Dated this 25<sup>th</sup> day of September, 2020.

Respectfully submitted,

s/Clarence Risin

Clarence Risin (TN BPR #016874)

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*Attorney for Defendant Vulcan Materials  
Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 25, 2020 the foregoing “Notice of Removal” was filed via the Court’s Electronic Filing System, and further, that I served a true and correct copy of same via U.S. Mail, postage prepaid, and/or via electronic mail on the following:

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*Attorney for Plaintiff*

s/Clarence Risin  
Clarence Risin